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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

BY:

UNITED STATES DISTRICT COURT

for the Central District of California

Louis A. Coffelt, Jr.,
Plaintiff,
--v--
Autodesk, Inc.,
Defendant.

Case No.: **5:17-cv-01684-FMO-SHK**

**NOTICE OF MOTION; AND
MOTION FOR LEAVE TO AMEND COMPLAINT**

Date: January 18, 2018

Time: 10:00 a.m.

Courtroom: 6D, 6th Floor

Hon. Fernando M. Olguin

TO: DEFENDANT Autodesk, Inc.:

PLEASE TAKE NOTICE that on Thursday January 11, 2018 at 10:00 a.m. or as soon
thereafter as the matter may be heard before the Honorable Fernando M. Olguin in
Courtroom 6D, United States Courthouse, 350 W 1st Street, Los Angeles, CA 9001, Plaintiff
Louis A. Coffelt, Jr. will and hereby do move this Court for Leave to amend the Complaint.

1 Pursuant to Local Rule 7-3 and the Initial Standing Order for Cases Assigned to the Honorable
2 Fernando M. Olguin, Plaintiff have conferred in good faith with Defendant regarding the motion
3 for Leave to amend the Complaint. Autodesk indicated that Autodesk does not oppose this Motion.
4

5 This Motion is based upon this Notice of Motion, the Memorandum of Points and Authorities
6 in Support of the Motion, all pleadings and records on file in this action, including matters of
7 which the Court may take judicial notice, and any other arguments and evidence to be presented
8 to the Court at or before the hearing on this Motion.

9 **Introduction**

10 On November 30, 2017, Plaintiff, Louis A. Coffelt, Jr. (Coffelt) filed a First Amended
11 Complaint (Doc. 31) (FAC). The FAC inadvertently omits a cause of action directed to Coffelt's
12 CAD Work. Also, The U.S. Copyright Office issued a certificate of registration for
13 Coffelt's Photorealistic Gradient Work, which is identified in the Complaint as an application.

14 The Fed. R. Civ. P. state that the court should freely give leave to amend when justice so
15 requires. The Ninth Circuit also supports leave to amend a complaint.

16 For these reasons, and those in the following, Coffelt request for Leave to amend
17 the complaint as set forth in the following.
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Memorandum of Points and Authorities

Coffelt is requesting Leave to amend the complaint. A basis for this includes, not limited to: Even after a complaint has been amended or a responsive pleading has been served, the Federal Rules of Civil Procedure provide that “[t]he court should freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(2). The Ninth Circuit requires that this policy favoring amendment be applied with “extreme liberality.” *Owens v. Kaiser Found. Health Plan, Inc.*, 244 F.3d 708, 712 (9th Cir. 2001); *Morongo Band of Mission Indians v. Rose*, 893 F.2d 1074, 1079 (9th Cir. 1990).

Paragraphs 30, 45, 49, 62, and 104, and EXHIBIT 106, in the FAC contain facts directed to copyright infringement of Coffelt’s CAD Work, U.S. Registration No. TX0008400276.

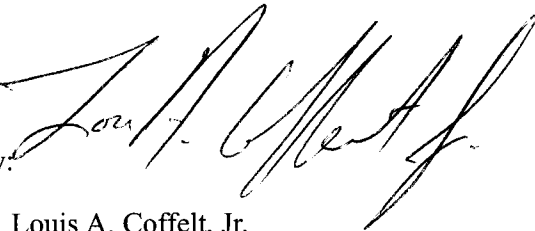
For these reasons, Coffelt request the Court for Leave to amend the complaint (Doc. 31) as shown in the attached EXHIBIT A.

On December 12, 2017, The U.S. Copyright Office issued a certification of registration for Coffelt’s Photorealistic Gradient Work, application No. 1-5376971191; and is U.S. registration No. TX0008447381, date of registration June 12, 2017.

For these reasons, Coffelt request the Court for Leave to amend the complaint (Doc. 31) as shown in the attached EXHIBIT B.

Date: December 18, 2017

By:



Louis A. Coffelt, Jr.

Plaintiff

Pro Se

EXHIBIT A

PROPOSED AMENDMENT OF THE COMPLAINT (Doc. 31)

Insert titles and paragraphs 161 through 180 after paragraph 160 as follows:

SIXTH CAUSE OF ACTION

(Copyright Infringement —Vicarious Liability)

161. Plaintiff repeats and incorporates by this reference the allegations set forth in paragraphs 1 through 160, inclusive.

162. Plaintiff Coffelt is the author and sole owner of all rights title and interest of the claimed works distributed by Autodesk's products including without limitation, AutoCad, Fusion 360, Maya, InfraWorks, AutoCAD Civil3D, Revit, Inventor, or Beast.

163. For each of the claimed works in this matter, Plaintiff holds a copyright registration certificate from the United States Copyright Office.

164. Without authorization, Autodesk adapted, including without limitation, AutoCad, Fusion 360, Maya, InfraWorks, AutoCAD Civil3D, Revit, Inventor, or Beast, to distribute the following Plaintiff owned and copyrighted claimed work including:

"emoshaGraphics CAD" Registration No. TX0008400276.

165. Through their conduct averred herein, Defendants have infringed Plaintiffs' copyright by vicarious liability.

166. Defendants' acts of infringement are willful, intentional and purposeful, in disregard of and with indifference to Plaintiff's rights.

167. As a direct and proximate result of said infringement by Defendants, Plaintiff is entitled to damages of at least \$33,000,000,000 to be proven at trial.

168. Plaintiff is also entitled to Defendant's profits attributable to the infringement, pursuant to U.S.C. § 504(b), including an accounting of such profits.

169. Plaintiff is further are entitled to Plaintiff's attorneys' fees and full costs pursuant to 17 U.S.C. § 505 and otherwise according to law.

170. As a direct and proximate result of the foregoing acts and conduct, Plaintiff has sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law. Plaintiff is informed and believe and on that basis aver that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiff's rights in the Infringed Works. Plaintiff is entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendants' continuing infringing conduct.

SEVENTH CAUSE OF ACTION

(Copyright Infringement — Contributory Infringement)

171. Plaintiff repeats and incorporates by this reference the allegations set forth in paragraphs 1 through 170, inclusive.

172. Plaintiff Coffelt is the author and sole owner of all rights title and interest of the claimed works distributed by Autodesk's products including without limitation, AutoCad, Fusion 360, Maya, InfraWorks, AutoCAD Civi13D, Revit, Inventor, or Beast.

173. For each of the claimed works in this matter, Plaintiff holds a copyright registration certificate from the United States Copyright Office.

174. Without authorization, Autodesk adapted, including without limitation, AutoCad, Fusion 360, Maya, InfraWorks, AutoCAD Civi13D, Revit, Inventor, or Beast, to distribute the following Plaintiff owned and copyrighted claimed work including:

"emoshaGraphics CAD" Registration No. TX0008400276.

175. Through their conduct averred herein, Defendants have infringed Plaintiffs' copyright by contributory infringement.

176. Defendants' acts of infringement are willful, intentional and purposeful, in disregard of and with indifference to Plaintiff's rights.

177. As a direct and proximate result of said infringement by Defendants, Plaintiff is entitled to damages of at least \$33,000,000,000 to be proven at trial.

178. Plaintiff is also entitled to Defendant's profits attributable to the infringement, pursuant to U.S.C. § 504(b), including an accounting of such profits.

179. Plaintiff is further are entitled to Plaintiff's attorneys' fees and full costs



pursuant to 17 U.S.C. § 505 and otherwise according to law.

180. As a direct and proximate result of the foregoing acts and conduct, Plaintiff has sustained and will continue to sustain substantial, immediate, and irreparable injury, for which there is no adequate remedy at law. Plaintiff is informed and believe and on that basis aver that unless enjoined and restrained by this Court, Defendants will continue to infringe Plaintiff's rights in the Infringed Works. Plaintiff is entitled to preliminary and permanent injunctive relief to restrain and enjoin Defendants' continuing infringing conduct.

EXHIBIT B

8

PROPOSED AMENDMENT OF THE COMPLAINT (Doc. 31)

1.) In the Complaint (Doc. 31) at paragraph 41: change (“case number 1-5376971191”) to:

(“U.S. registration No. TX0008447381”)

2.) In the Complaint (Doc. 31) at paragraphs 93; 94; 98; 103; 118; 128; 138; 158:

change (“case No. 1-5376971191”) to:

(“U.S. registration No. TX0008447381”)

CERTIFICATE OF SERVICE

I, Louis A. Coffelt, Jr. ("Coffelt") hereby certify that on the 18th day of December, 2017, Coffelt filed the the foregoing document **NOTICE OF MOTION; AND MOTION FOR LEAVE TO AMEND COMPLAINT** with the Clerk of the Court, in case No. 5:17-cv-01684-FMO-SHK, as follows:

Office of the Clerk

United States District Court for the Central District of California

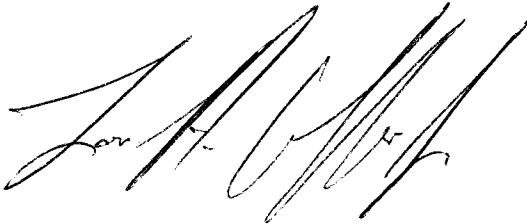
312 North Spring Street, Los Angeles, CA 90012

And further caused to be served one copy of the foregoing document **NOTICE OF MOTION; AND MOTION FOR LEAVE TO AMEND COMPLAINT** by U.S. mail, postage prepaid, in case 5:17-cv-01684-FMO-SHK to the following attorneys of record:

Richard S.J. Hung
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105
(415) 268-7602 (direct)
(415) 268-7522 (fax)
rhung@mofo.com

Date: December 18, 2017

By:



Louis A. Coffelt, Jr.

Plaintiff

Pro Se